REGULATION NO. XI OF 1923.

A Regulation to amend Act XIII of 1859.

(AN ACT TO PROVIDE FOR THE PUNISHMENT OF BREACHES OF CONTRACT BY ARTIFICERS, WORKMEN AND LABOURERS IN CERTAIN CASES.)

Received the assent of His Highness, the Maharaja on the fourth day of September 1923.

WHEREAS it is expedient to amend Act XIII of 1859 as in force in Mysore; His Highness the Maharaja is pleased to enact as follows:—

Amendment of Section 1.

1. (1) Section 1 of the Act shall be renumbered as sub-section (1) of Section 1.

(2) In the said sub-section—

(*a*) after the words "an advance of money" the words "not exceeding three hundred rupees" shall be inserted; and

(*b*) the words "and the Magistrate shall thereupon issue" to the end of the section shall be omitted.

(3) To the said section the following sub-sections shall be added, namely:—

"(2) The Magistrate shall at once examine the complainant on oath and may thereupon dismiss the complaint if in his opinion there is no sufficient ground for proceeding.

(3) If, in the opinion of the Magistrate, there is sufficient ground for proceeding, he shall issue a summons or warrant, as he may think proper, for bringing before him such artificer, workman or labourer and shall hear and determine the case."

Substitution of new sections for Section 2. Order for repayment of advance or performance of contract.

2. For Section 2 of the Act the following sections shall be substituted, namely:—

"(1) 2. If it shall be proved to the satisfaction of the Magistrate that such artificer, workman or labourer has received money in advance, not exceeding three hundred rupees, from the complainant on account of any such work, and has wilfully and without lawful or reasonable excuse neglected or refused to perform or get performed the same according to the terms of his contract, the Magistrate may in his discretion either order such artificer, workman or labourer to repay the money advanced, or such part thereof as may be just and proper, within such period and in such instalments, if any, as the Magistrate thinks fit, or order him to perform or get performed such work within such period not exceeding one year as the Magistrate may determine and otherwise according to the terms of the contract:

Provided that no such order shall be made—

(*a*) unless the complaint was brought within six months of the neglect or refusal, or

(*b*) if it is proved that the complainant has on any previous occasion obtained an order under this sub-section against such artificer, workman or labourer.

Explanation.—Where no time has been fixed for the performance of a contract, neglect may be presumed to have occurred on the expiry of such period as the Magistrate deems to be a reasonable time for the performance thereof.

(2) If such artificer, workman or labourer shall fail to comply with an order made under sub-section (1), the Magistrate may sentence him to imprisonment for a period not exceeding three months, or, if the order be for the repayment of a sum of money, for a period which may extend to three months or until repayment is made, whichever period is shorter:

Provided that, where any instalment has been ordered, no sentence of imprisonment exceeding one month shall be passed for default in payment of any one instalment, and the aggregate of such sentences shall not exceed three months.

(3) The Magistrate, may, from time to time, extend the period for repayment of money advanced or for the performance of work, as the case may be, and may vary the instalments:

Provided that no order shall be made under this sub-section extending beyond one year from the date of the order under sub-section (1) the period within which the work is to be performed.

(4) No repayment of any money or order therefor shall deprive the complainant of any civil remedy whether for the recovery of any money advanced and remaining unpaid or otherwise, which he may have otherwise than under this Act.

Inequitable contracts not to be enforced.

2A. The Magistrate may in his discretion refuse to make an order under Section 2 where in his opinion the contract in respect of a breach of which the complaint has been made was substantially unfair.

Compensation in false or frivolous or vexatious complaints.

2B. (1) If in any proceedings under this Act the Magistrate is of opinion that the complaint was false to the knowledge of the complainant or was frivolous or vexatious, he may in his discretion call upon the complainant forthwith to show cause why he should not pay compensation to the person complained against.

(2) The Magistrate shall consider any cause which such complainant may show, and, if after so doing he is satisfied that the accusation was false to the knowledge of the complainant or was frivolous, or vexatious, he may, for reasons to be recorded, direct that compensation not exceeding fifty rupees be paid by the complainant to the person complained against.

(3) Compensation for the payment of which an order is made under sub-section (2) shall be recoverable as if it were a fine, and the Magistrate may, by the order directing payment of the same, further order that in default of payment the complainant shall suffer simple imprisonment for a period which may extend to thirty days or until payment is made whichever period is shorter."

Amendment of Section 3.

3. In Section 3 of the Act for the words " to be imprisoned with hard labour " the words " to imprisonment " shall be substituted

Substitution of a new section for Section 4.

4. For Section 4 of the Act the following section shall be substituted, namely :—

To what contracts the Act extends.

" 4. In this act, the word "contract" shall extend to all contracts within the meaning of the Indian Contract Act, 1872, as applied to Mysore :

Provided that nothing in this Act shall apply to contracts where a period having been specified for performance such period exceeds one year.

Provided further that nothing in this Act shall apply to contracts which are not in writing, in cases where the money advanced exceeds fifteen rupees."

Addition of a new section after Section 4.

5. After Section 4 of the Act, the following new section shall be added :—

Exemption of women from the operation of the Act.

" 4A. Nothing herein contained shall apply to breaches of contract on the part of artificers, workmen and labourers where such artificer, workman or labourer is a woman."

A. R. BANERJI,
Dewan.